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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,218

06/01/2006

Erik Houbolt

NL03 1455 US1

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09/24/2009

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

PO BOX 3001

BRIARCLIFF MANOR, NY 10510-8001

EXAMINER

PRONE, JASON D

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

09/24/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,218	<b>Applicant(s)</b> HOUBOLT ET AL.	
	<b>Examiner</b> Jason Daniel Prone	<b>Art Unit</b> 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6 and 8-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6 and 8-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "corresponds to its reeling sense of rotation" is unclear. First, it is unclear what structure corresponds to the word "its". What structure has the reeling sense? Assuming it is the roller that has the reeling sense of rotation; it is unclear what structure the roller incorporates to allow the roller to have a sense of anything.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4-6, 8-10, and 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Avidor (5,933,960) in view of Zucker (6,442,840).

With regards to claims 1, 18, and 19, Avidor discloses the invention including at least one cutting blade (Fig. 16), an actively drivable device arranged behind the cutting blade relative to a cutting direction (122), a guard arranged in front of the cutting blade

(104), a pivot axis between the shaving head and a handle attached to the shaving head (132), the pivot axis being arranged at least essentially parallel to the cutting blade (132), the pivot axis is arranged such that a force component applied perpendicularly to the cutting direction is distributed at least essentially in equal parts to the stretching and guard means (132), and the pivot axis is arranged such that a force component applied perpendicularly to the cutting direction is distributed to the device and the guard at a ratio that remains substantially constant for different angles of the handle with respect to the shaving head (Fig. 17).

With regards to claims 2 and 4-6, Avidor discloses at least one spring element (150), the guard capable of performing a hair erecting/lubrication function (104), and the guard comprises at least one strip arranged parallel to the cutting blade (104).

With regards to claims 8-10, Avidor discloses the pivot axis is arranged closer to the guard (Fig. 17), the pivot having a coupling arranged to couple the shaving head to the handle (132), and the device has at least one actively drivable roller (122).

With regards to claims 12-17, Avidor discloses the device is driven via a movement over skin (122), the stretching device is driveable by an electromotor (column 10 lines 20-23), the motor is associated with the shaving head/handle (column 10 lines 20-23 and Fig. 13), a second coupling for coupling the device to the motor (column 10 lines 20-23), and the pivot axis is arranged at a middle position (Fig. 17).

However, with regards to claims 1, 9, 10, 12, 13, 16, and 19, Avidor fails to disclose the actively drivable device is a skin stretching device.

Zucker teaches it is old and well known in the art of shaving devices to incorporate 2 rollers that cooperate to stretch the skin (Column 5 lines 14-28).

Therefore, it is well within ones technical grasp to have substituted roller 122 with a roller that would cooperate with guard 104 to stretch the skin. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have replaced the roller of Avidor with a skin stretching roller, as taught by Zucker, because the substitution of one known element for another would have yielded predictable results and all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results

5. It is to be noted that claim 11 has not been rejected over prior art. It may or may not be readable over the prior art but cannot be determined at this time in view of the issues under 35 USC § 112.

### ***Response to Arguments***

Applicant's arguments filed 23 June 2009 have been fully considered but they are not persuasive. Applicant argues Figure 17 discloses that the pivotal connection 132 is directly in line with the sockets 120. The examiner disagrees. With the angle provided, one could not determine the exact position of 132 relative to 120 because it is not a straight on back view. Applicant has provided no evidence to support this alleged aligned position. On page 9 lines 1-4, applicant admits that both 120 and 104 would receive force from the handle. Applicant also states that the force received by 120 would be more than the force received by 104. Even if this is the case, the values could

still be considered essentially equal. Applicant discloses the typical reasons for the use of the terms "portion" (of middle portion) and "essentially" (essentially equal). However, the specification does not disclose any ranges, values, or a special definition that would allow one skilled in the art to determine what the terms "portion" and "essentially" can and cannot be. The point the examiner was trying to make in the previous response to arguments was that without some guidance any two values can be considered essentially equal depending on the perimeters of the situation. In this case, applicant has not provided any guidance to support the argument that the forces applied to 120 and 104 can not be considered essentially equal. With regards to the interpretation of the term middle portion, any portion in the middle of anything can be considered a middle portion. In the case, the portion having item 132 is a middle portion because it is in the middle of the end edges.

It is believed that the issue here is applicant believes that distribution of forces, in the instant application, may be closer to being equal than the distribution of forces in Avidor. However, just because one set of values may be closer to being equal than a second set of values does not disqualify the second set from being considered essentially equal.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Daniel Prone whose telephone number is (571)272-4513. The examiner can normally be reached on M-F 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

19 March 2009  
/Jason Daniel Prone/ Primary Examiner, Art Unit 3724